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This is the first page of 12

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Application No.:	09/713,296
Filing Date:	November 16, 2000
Inventor (first named):	Perrault
Group Art Unit:	3637
Examiner Name:	Phi Dieu N. Tran A
Attorney Docket No.:	45197.2

Enclosed is an Appeal Brief Under 37 C.F.R. 41.37 In Response to Final Office Action Mailed 08/23/2005 with Credit Card Payment Form attached.

Edward Yoo 41435

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application No.:	09/713,296
Filing Date:	November 16, 2000
Inventor (first named):	Perrault
Group Art Unit:	3637
Examiner Name:	Phi Dieu N. Tran A
Attorney Docket No.:	45197.2

Certificate of Transmission Under 37 C.F.R. 1.8(a)

I hereby certify that this document is being facsimile transmitted on this date March 23, 2006 to FAX No. 571-273-8300 to the U.S. Patent and Trademark Office, Attention: Examiner Phi Dieu Tran A. at Group Art Unit 3637 in Arlington, VA 22202

Eileen Lucas.
EILEEN LUCAS

DATED: March 23, 2006

APPEAL BRIEF UNDER 37 C.F.R. 41.37
IN RESPONSE TO FINAL OFFICE ACTION MAILED 08/23/2005

To: Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Notice of Appeal was timely filed January 23, 2005, and the following appeal brief is filed within two months of filing the Notice of Appeal.

Applicant is providing an Appeal Brief under 37 C.F.R. 41.37(c)(1), with regard to claims 1-17, 20 and 21.

APPEAL BRIEF UNDER 37 C.F.R. 41.37(C)(1)

Applicant provides Appeal Brief under 37 C.F.R. 41.37(c)(1). The Appeal Brief is filed within the time allowed for Appeal Brief of two months after filing the Notice of Appeal under 37 C.F.R. 41.37(a)(1). The fee for this Appeal Brief is 500.00 under 35 U.S.C. 41(a)(6)(B), which is reduced by half as the applicant claims small entity status under 37 C.F.R. 1.27 for a total of $250.00. Fee payment by Credit Card form is transmitted herewith.

(i) Real Party in Interest

The real parties in interest are the applicants Larry Perrault and David R. Karroll.

(ii) Related Appeals and Interferences

There are no prior or other pending appeals, judicial proceedings or interferences known to the appealant which may be related to, directly affect or be directly affected by or have nay bearing on the Board's decision in the pending appeal.

(iii) Status of Claims

Claims 1-17, 20 and 21 are rejected and under appeal.

Claims 18 and 19 are objected and not under appeal.

(iv) Status of Amendments

An amendment to claim 18 dated 01/23/2005, has been filed subsequent to the final rejection mailed 08/23/2005 and has not yet been entered by the examiner.

(v) Summary of Claimed Subject Matter

The present invention provides for an improved roof truss. It reduces cracking between the ceiling finish and the interior partition wall finish caused by arching of the roof trusses. This is accomplished by means of a bottom plate which is attached to the bottom chord of the roof truss. The top member of interior partition walls is attached to the bottom plate in such a way that the bottom plate does not lift away from the top plate of the interior walls despite vertical movement of the bottom chord of the roof truss (see page 2, lines 17-22).

According to Figures 1-15, the improved truss (10) of independent claim 1 comprises a bottom chord (12), a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords, wherein the improvement comprises: a bottom plate (14) disposed beneath and substantially parallel to the bottom chord (12); and means for attaching the bottom plate to the bottom chord (16) which allows separation of the bottom plate from the bottom chord when the bottom plate is attached to an interior partition wall and the roof truss rises relative to the interior partition wall.

According to Figures 10 and 11, the improved truss of independent claim 17 comprises: a bottom chord (12); a bottom plate (14) disposed underneath and substantially parallel to the bottom chord (12); means for attaching the bottom plate to the bottom chord (16); and spacers (36) disposed between the bottom plate and the bottom chord which create a thermal gap between the bottom plate and the bottom chord (see page 8, lines 25-30).

Independent claim 1 includes the means plus function element under 35 U.S.C. 112, paragraph 6, of means for attaching the bottom plate to the bottom chord (16) which allows separation of the bottom plate from the bottom chord when the bottom plate is attached to an interior partition wall and the roof truss rises relative to the interior partition wall.

Independent claim 17 includes the means plus function element under 35 U.S.C. 112, paragraph 6, of means for attaching the bottom plate to the bottom chord (16) which create a thermal gap between the bottom plate and the bottom chord.

The means for attaching the bottom plate to the bottom chord in independent claims 1 and 17 are a plurality of appropriate connectors (16) (see page 4, line 31). Rigid connectors may include fasteners, gang plates and hangers (see page 5, line 15). Fasteners may include screws, nails, staples or other appropriate fasteners(see page 5, line 16 and element (29) of Figure 4). Gang plates are metal sheets having punched-out, pointed tangs which protrude perpendicularly from one surface (see page 5, line 18, and brackets (31) of Figure 12). Hangers may be H-shaped hangers, U-shaped hangers, wrap-around hangers, or other appropriate hangers, and may be metal, plastic or any other suitable material (see page 5, line 22 and straps (33) of Figure 13). Frangible connectors may be hangers having rows of perforations (see page 6, line 8). Slidable connectors are hangers having vertically slotted holes (see page 6, line 15).

<u>(vi) Grounds of Rejection to be Reviewed on Appeal</u>

1. Whether claims 17, 20-21 are properly rejected under 35 U.S.C. 102(e) as being anticipated by Kost (U.S. Patent 6,047,503).

2. Whether claims 1-5, 7-11 and 13-16 are properly rejected under 35 U.S.C 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503).

3. Whether claims 1-2 and 6 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Thompson (U.S. Patent 6,094,880).

4. Whether claim 12 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503) and further in view of Boozer (U.S. Patent 5,743,063).

5. Whether claim 17 is properly rejected under U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503).

(vii) Argument

1. **Whether claims 17, 20-21 are properly rejected under 35 U.S.C. 102(e) as being anticipated by Kost (U.S. Patent 6,047,503).**

The Kost reference teaches pre-manufactured wall frames – there is absolutely no teaching of roof trusses. Kost does not teach any form of roof truss. Examiner referred to Figure 12 and stated that element 23 is equivalent to a bottom chord and that element 2A is equivalent to the bottom plate. Element 23 may be the bottom chord of a roof truss, although it is identified as a cross-beam, However, element 2A is not a bottom plate. It is a top part of the wall framing unit. The difference may be seen in that element 2A in Kost which Examiner has equated to the bottom plate runs perpendicular to the longitudinal axis of the roof truss. In the case of the present invention, the bottom plate is parallel to such axis, because it is part of the truss. The parallel characteristic is a claimed limitation in claims 1 and 17. The present invention is an improved roof truss, which adds the element of a bottom plate, disposed below the bottom chord. This is best seen in Figure 1 of the present invention. It is important to consider that the bottom plate is a separate element from the bottom chord, not part of the bottom chord.

2. **Whether claims 1-5, 7-11 and 13-16 are properly rejected under 35 U.S.C 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503).**

With respect, it is submitted that no *prima facie* case of obviousness may be made. Kost does not teach a roof truss, which is the object of the present claims. In particular, niether Laughlin nor Kost does not teach a bottom plate which is parallel to the bottom chord.

3. **Whether claims 1-2 and 6 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Thompson (U.S. Patent 6,094,880).**

First, it is submitted that no *prima facie* case of obviousness may be made. In particular, neither Laughlin nor Thomson teaches a bottom plate which is parallel to the bottom chord of a roof truss.

4. **Whether claim 12 is properly rejected under 35 U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503) and further in view of Boozer (U.S. Patent 5,743,063).**

Claim 12 depends from claim 1 and is therefore also submitted to be free of the prior art.

5. **Whether claim 17 is properly rejected under U.S.C. 103(a) as being unpatentable over Laughlin (U.S. Patent 1,444,798) in view of Kost (U.S. Patent 6,047,503).**

It is submitted that no *prima facie* case of obviousness may be made. Niether Laughlin nor Kost teach a bottom plate which is parallel to the bottom chord of a roof truss.

(viii) Claims Appendix

Claims involved in this appeal are provided below.

1. (Previously Amended) An improved roof truss comprising a bottom chord, a top chord and at least two intermediate members creating a triangular shape with one of the top or bottom chords, wherein the improvement comprises:

    a) a bottom plate disposed beneath and substantially parallel to the bottom chord; and

    b) means for attaching the bottom plate to the bottom chord which allows separation of the bottom plate from the bottom chord when the bottom plate is attached to an interior partition wall and the roof truss rises relative to the interior partition wall.

2. (Original) The improved roof truss of claim 1 wherein the means for attaching the bottom plate to the roof truss comprises a plurality of connectors.

3. (Original) The improved roof truss of claim 2 wherein the connectors are removable.

4. (Original) The improved roof truss of claim 2 wherein the connectors are frangible.

5. (Original) The improved roof truss of claim 1 wherein the means for attaching the bottom plate to the roof truss comprises one or more connectors slidably attached to the bottom plate and the roof truss.

6. (Original) The improved roof truss of claim 2 wherein the connectors are fasteners driven through the bottom plate into the bottom of the bottom chord.

7. (Original) The improved roof truss of claim 2 wherein the connectors are gang plates.

8. (Original) The improved roof truss of claim 2 wherein the connectors comprise a plurality of wood fasteners and hangers having a plurality of holes, wherein the wood fasteners are driven through the holes in the hangers into the bottom plate, the bottom chord or both.

9. (Original) The improved roof truss of claim 8 wherein the hangers are frangible.

10. (Original) The improved roof truss of claim 9 wherein the hangers have a perforation disposed in such a way that if the hanger is severed at the perforation, the hanger and fasteners will no longer act to attach the bottom plate to the bottom chord.

11. (Original) The improved roof truss of claim 8 wherein the hangers are slidably attached to the bottom plate and the bottom chord.

12. (Original) The improved roof truss of claim 11 wherein the holes are vertically slotted holes.

13. (Original) The improved roof truss of claim 8 wherein the hangers are H-shaped hangers.

14. (Original) The improved roof truss of claim 8 wherein the hangers are U-shaped hangers.

15. (Original) The improved roof truss of claim 8 wherein the hangers are wrap-around hangers.

16. (Original) The improved roof truss of claim 8 wherein the hangers are metal.

17. (Previously Amended) An improved roof truss, comprising:

(a) a bottom chord;

(b) a bottom plate disposed underneath and substantially parallel to the bottom chord;

(c) means for attaching the bottom plate to the bottom chord; and

(d) spacers disposed between the bottom plate and the bottom chord which create a thermal gap between the bottom plate and the bottom chord.

20. (Previously Amended) The improved roof truss of claim 17 further comprising a strap, located at the intersection of the bottom plate and an interior partition wall, said strap passing between the bottom plate and the bottom chord, wherein said strap may be fastened to the interior partition wall wherein fasteners can be driven through the planar member on either side of the bottom plate so as to attach the bottom plate to the interior partition wall.

21. (Original) The improved roof truss of claim 20 wherein the strap is metal.

(ix) Evidence Appendix

There has been no evidence submitted under 37 C.F.R. 1.130, 1.131 or 1.132.

Copies of evidence relied upon as grounds of rejection in Final Office Action dated 08/23/2005 are listed below.

1. U.S. Patent 6,047,503 to Kost
2. U.S. Patent 1,444,798 to Laughlin
3. U.S. Patent 6,094,880 to Thompson
4. U.S. Patent 5,743,063 to Boozer

(x) Related Proceedings Appendix

None.

Respectfully submitted,

Larry Perrault, et al.

By: _____
Edward Yoo (Reg. No. 41,435)

CORRESPONDENCE ADDRESS: Customer No. 22828

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